



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.10.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.10577 of 2018

and

W.M.P.(MD)No.9648 of 2018

1.T.Udayakumar

... Petitioner

Vs.

1.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai.

2.The Director of Technical Education,
Directorate of Technical Education,
Guindy, Chennai.

3.The Superintendent of Police
Kanyakumari District.

4.The Deputy Superintendent of Police,
Kanyakumari Division,
Kanyakumari District.

5.G.Krikkol Raj

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ Certiorarified of Mandamus, to call for the documents pertaining to impugned order passed by fourth respondent dated 23.04.2018 and quash the same as illegal and consequently direct the third and fourth respondents to give adequate police protection to the petitioner who is in the administration of Kamarajar Polytechnic College Palavilai and the connected Educational College, Palavilai.

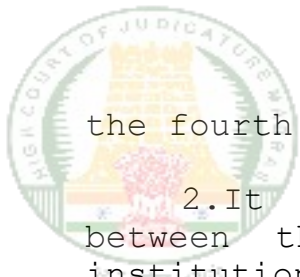
For Petitioner : Mr.K.P.Narayanakumar

For R-1 to R-4 : Mr.B.Bhagavathi
Government Advocate

For R-5 : Mr.B.Saravanan

ORDER

THIS writ petition has been filed challenging the order passed by the fourth respondent, dated 23.04.2018 and for a direction to



the fourth respondent to grant police protection to the petitioner.

2.It is seen from records that there is a dispute pending between the parties insofar as the Management of the aided institution run by Nadar Mahajana Sangam. A suit has been filed in O.S.No.676 of 2016 by the petitioner, seeking for the relief of declaration and injunction against the fifth respondent and another person called as Selvakumar. The suit is admittedly pending on the file of the learned Principal Sub Judge, Madurai.

3.The interim order came to be passed in the said suit in I.A.No.509 of 2016. The fifth respondent filed an application in I.A.No.492 of 2017 in order to vacate the interim order, granted in favour of the petitioner and the Court below by an order dated 13.11.2017 passed a conditional order. This became a subject matter of challenge, before this Court in C.R.P.(MD)No.10 of 2018.This Court dismissed the C.R.P. and confirmed the order of the Court below made in I.A.No.492 of 2017.

4.In the meantime, the fifth respondent had made a representation to the fourth respondent, seeking for police protection and the fourth respondent by virtue of the impugned order, dated 23.04.2018 virtually decided the rights among the parties and this has become a subject matter of challenge before this Court, in the above Writ Petition.

5.The learned counsel for the petitioner would submit that the fourth respondent does not have any jurisdiction to pass such an order when inter se dispute between the parties is pending before the competent Civil Court and the fourth respondent ought not to have arrogated powers of a civil Court and passed the impugned order.

6.The learned counsel appearing on behalf of the fifth respondent would submit that based on the ex-parte order passed in the suit, the petitioner created a ruckus in the College by bringing in persons from outside and therefore, a petition was filed before the respondent police, seeking for police protection. The learned counsel would further submit that the fourth respondent merely recorded the earlier proceedings between the parties and the fourth respondent did not decide the inter se right between the parties.

7.The learned Government Advocate would submit that the dispute between the parties is pending before the competent civil Court and the police never had the intention to interfere with the dispute between the parties. Since a representation was made to the fourth respondent, seeking for police protection, the fourth respondent merely recorded the earlier proceedings between the parties and the fourth respondent never attempted to adjudicate upon the rights of the parties.



8.This Court has carefully considered the submissions made on either side.

9.In this case, it is seen that the parties are at logger heads with regard to the right to administer the institution under the Nadar Mahajana Sangam and the Suit in O.S.No.676 of 2016 is pending before the competent civil Court. The parties will have to work out their rights only before the competent civil Court. Even in case of seeking a police protection, appropriate application can be filed only before the civil Court since the civil Court is dealing with the issue with regard to the rights of the parties in administering the institution run by the Nadar Mahajana Sangam. The civil Court is having such a right to provide for police protection in exercise of its power under Section 151 C.P.C.. Only on such orders being passed by the competent civil Court, the police can provide for any police protection in this case. The respondent police is directed not to interfere with the dispute that is pending between the parties unless directed by the civil Court in this regard.

10.In the facts and circumstances of the case, the impugned order passed by the fourth respondent, dated 23.04.2018, is hereby set aside. The parties are at liberty to file an appropriate application before the civil Court in which, O.S.No.676 of 2016 is pending, if in case any police protection is required. Since the pendency of the suit is creating an uncertain situation in administering the institution, the learned Principal Sub Judge, Madurai is directed to dispose of the suit in O.S.No.676 of 2016 within a period of three months from the date of receipt of a copy of this order. It is made clear that the parties shall abide by the judgment of the civil Court and it is also made clear that the police will not interfere into the issue unless they are directed to do so by an order passed by the civil Court.

11.With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The Principal Subordinate Judge,
Madurai.

2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai.



3.The Director of Technical Education,
Directorate of Technical Education,
Guindy, Chennai.

4.The Superintendent of Police
Kanniyakumari District.

5.The Deputy Superintendent of Police,
Kanniyakumari Division,
Kanniyakumari District.

+1CC TO MR.B.SARAVANAN, ADVOCATE IN SR.NO.88222.

+1CC TO MR.K.P.NARAYANAKUMAR, ADVOCATE IN S.R.NO.88224.

+1CC TO SPECIAL GOVERNMENT PLEADER IN SR.NO.88193.

LS

DS SKN SAR-1 04.10.2018 4P/9C

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